IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.26709 of 1998

Dated: April 5, 2007

Between:

Leela Mahal, Kothapet, Guntur, Guntur District,
Represented by its Licensee R.V.R. Bhupal Prasad.

... Petitioner

And

The Commissioner, Municipal Corporation of
Guntur, Guntur, Guntur District.

... Respondent

Order:

Petitioner, a cinema theatre located in Guntur, has filed this Writ Petition seeking Mandamus to declare the notice dated 24-08-1998, issued by the respondent – Commissioner, Municipal Corporation of Guntur, in proceedings No.288, demanding an amount of Rs.7,000/- towards administrative charges for the year 1998-99 for the period from 01-09-1998 to 31-03-1999, as arbitrary and illegal.

2. The aforesaid amount was levied on the petitioner pursuant to

the decision of the Standing Committee of the Guntur Municipal Corporation on 23-07-1998, under Section 230 of the Hyderabad Municipal Corporation Act ('the Act' for brevity). Under the said provision, the Commissioner may fix the Conservancy tax to be paid in respect of any hotel, club, stable or other large premises at such special rates as shall be generally approved by the Standing Committee in this behalf, whether the service in respect of which such tax is leviable be performed by human labour or by substituted means or appliances.

3. Learned counsel for the petitioner submits that petitioner-theatre, which was constructed in the year 1942, is not generating any garbage, and, hence, there is no question of the Municipal Corporation incurring any expenditure in that regard. He further submits that the petitioner is regularly paying the taxes levied under the A.P. Cinemas (Regulation) Act and also A.P. Entertainment Tax Act; hence, the levy of amount towards administrative charges by the impugned notice is unjustified.

4. The Commissioner, Municipal Corporation, Guntur has filed counter affidavit stating that the Corporation is incurring heavy expenditure for removing garbage from theatres, hotels and other commercial establishments. It is stated that for the purpose of lifting bulk garbage generated by theaters, hotels and commercial establishments; extra tractors are being engaged. It is also stated that similar administrative charges are being collected from cinema theatres, hotels and other commercial establishments in Visakhapatnam, Vijayawada and Warangal Municipal Corporations also. It is further stated that the purpose of levying such charges is that huge garbage being generated by cinema theatres, which run 4 shows

a day, with 1000 people who watch each show and throw litter in and around the theatres, is to be removed by incurring heavy expenditure. It is also stated that payment of entertainment tax and other taxes is not a substitute for payment of administrative charges as contemplated under Section 230 of the Act and hence it cannot be said that levy of such charges is illegal.

5. Though learned counsel for the petitioner submits that the Corporation is not incurring any additional expenditure, however, as per Section 230 of the Act, the Corporation is empowered to levy conservancy tax in respect of any hotel, club, or any other large premises. In the case on hand, it is stated in the counter affidavit that the Corporation is incurring heavy expenditure for lifting the garbage generated by the theatres, including the petitioner-theatre, by engaging extra tractors. Moreover, the Standing Committee of the Corporation has approved rates for imposing such levy. The contention of the learned counsel for the petitioner that the petitioner-theatre does not produce any garbage at all cannot be accepted for the reason that the people who come to watch movies in the theatre
carry/purchase eatables and throw the litter in the premises and it is quite natural for every public place to generate garbage. In view of the specific averment of the respondent in the counter affidavit that it is incurring huge expenditure in maintaining sanitation, by clearing the garbage, imposition of administrative charges on the petitioner-theatre cannot be said to be illegal, more so when the Corporation is empowered to levy conservancy charges under Section 230 of the Act. Another contention of learned counsel for the petitioner that as the petitioner is paying entertainment tax and other taxes, it need not pay the administrative charges demanded by the impugned notice, cannot be accepted because the object of the said levy is for different and

distinct purpose other than the taxes collected under the Act. Administrative charges demanded by the respondent have nothing to do with other fee and taxes payable under the A.P. Cinemas (Regulation) Act and also
A.P. Entertainment Tax Act.

6. For the foregoing reasons, I do not find any illegality in the impugned notice issued by the respondent, warranting interference under Article 226 of the Constitution of India.

7. Initially, this court, while admitting the Writ Petition, by order dated 24-09-1998, suspended the operation of the impugned notice, and, thereafter, by order dated 15-03-1999, made the order of suspension absolute on condition of the petitioner depositing an amount of Rs.500/- per month with effect from 01-04-1999. Inasmuch as no interference is made with the impugned notice, by this court, the petitioner is directed to pay the arrears of charges demanded in the impugned notice within a period of two months from today. The interim order of this court dated 24-09-1998 consequently stands dissolved.

8. The Writ Petition is accordingly dismissed. No costs.

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JUSTICE R. SUBHASH REDDY.

April 5, 2007
MRR